

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:06CV281-MU

MEINEKE CAR CARE CENTERS, INC., )

Plaintiff, )

vs. )

BELL ENTERPRISES, LLC, JOHN DARYL )  
BELL and LISHA F. BELL, )

Defendants. )  
\_\_\_\_\_)

ORDER

This matter is before the court upon the *pro se* Defendants' Motion to Dismiss pursuant to Rules 12(b)(1), (3) and (6). Plaintiff has filed a response to the Motion to Dismiss. Defendants' main argument is that the Franchise Agreement at issue requires mandatory arbitration. However, Article 17.2 of the Agreement only provides for arbitration "on demand of either party." It appears that neither party has demanded arbitration. As the arbitration clause is not mandatory, Meineke was within its rights to file this action in federal court rather than arbitrate. Moreover, pursuant to Article 17.5 of the Agreement, venue is proper here, as Meineke's principal place of business is in Charlotte, North Carolina. After reviewing the matter, it appears to the court that Defendants' Motion to Dismiss is without merit.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss is hereby DENIED.

Signed: September 5, 2006



Graham C. Mullen  
United States District Judge

